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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/687,337 | 10/16/2003 | Steven Tchira | DCW-002 | 7078 |

55461 7590 11/29/2005

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EXAMINER

HARMON, CHRISTOPHER R

ART UNIT PAPER NUMBER

3721

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,337

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| Applicant(s) | |
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TCHIRA, STEVEN

Examiner

Christopher R. Harmon

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| Art Unit | |
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/4/05/2nd & 3rd sup).

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/22/05 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 18 is rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Bowman (#6,604,674).

Bowman discloses a wrap and method comprising: a sheet of material that has intersecting score lines 18, 19, 32, 33, 36, etc. a folding sequence corresponding to a pre-determined shape along said lines for the wrap which comprises an appearance of being wrapped by hand. Bowman shows a single sheet of material with visual indicia

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arranged to illustrate the folding sequence into a selected appearance as well as fastening/securing means to overlap portions. Bowman appears to show a transparent outer wrap as well as a generally translucent inner wrap as claimed.

Claim Rejections - 35 USC § 103

4. Claims 1- 6, 8-11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman (#6,604,674) in view of Weder (#6,484,442).

Bowman does not disclose the wrapping material to be used for a flower wrap as claimed nor a metallic scoring die. However, Weder shows a sheet of material with an unfolded position fig 1 and a second folded position; see figure 3. Weder shows a plurality of lines 28 to fold the sheet in a pre-defined sequence. Weder shows a generally conical shape as claimed with overlapping portions 48a and peaked sections 86; see figures 7-9. Weder also disclose visual indicia, which include printing instructions (col 3 lines 25+) and fastening means 30 as claimed. The indicia 28 directs the operator to provide fold pleats at predetermined portions (col 5 lines 45+) which reads on the markings being arranged to compliment the folded shape of the sheet. Weder discloses that it is known to use dies to form flower wraps (col 1 lines 42+). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Bowman with a flower wrap as taught by Weder to form a desired product that is known and within the realm of one of ordinary skill in the art. Regarding the step of shipping the

Regarding claim 6, Bowman shows an open top and bottom predetermined shape when the flaps are not folded as shown in figure 7.

5. Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weder (#6,484,442) in view of Bowman (#6,604,674).

Weder discloses a method for making a pre-folded flower wrap comprising folding a sheet of material along a plurality of lines 28 with a distinct folding sequence corresponding to a pre-determined folded shape with overlapping portions 48a and a plurality of peaked sections 86; see figures 7-9. The various portions are secured into shape via bonding material 30.

Weder does not directly disclose lines 28 intersecting, however Bowman discloses forming intersecting score lines prior to folding packaging material. It would have been obvious to one of ordinary skill in the art to form intersecting lines as taught by Bowman in the invention to Weder in order to form a desired shape ie. shorter overlapping portion. Regarding the limitation of shipping the secured wrap, Bowman discloses using the packaging material in order to give as a gift thus conveying/shipping the secured pre-folded wrap/package.

Regarding claim 13, it would have been obvious to one of ordinary skill in the art at the time the invention was made to score the modified sheets of Bowman using a metallic die because scoring sheets using a metallic die is taken to be admitted prior art (see Final Rejection of 2/10/05).

Regarding claim 15, Bowman does not disclose how the material is scored, however the examiner recognizes that simultaneous scoring of a plurality of sheets is well known in the art and hereby takes Official Notice that it would have been obvious to one of ordinary skill in the art at the time the invention was made to score a plurality of the sheets in a simultaneous manner.

Response to Arguments

6. Applicant's arguments filed 9/22/05 have been fully considered but they are not persuasive. Arguments regarding the product intended to be wrapped are not persuasive note that a limitation directed to an intended use of an apparatus or a process requires a structural difference or a manipulative difference between the claimed invention and the prior art. See *In re Otto*, 312 F.2d 937, 938, 136 USPQ 458, 459 (CCPA 1963); *In re Sinex*, 309 F.2d 488, 492, 135 USPQ 302, 305 (CCPA 1962); *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

Note also that during patent examination, the claims are given the broadest reasonable interpretation consistent with the specification. See *In re Morris*, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997). See MPEP § 904.1. Thus, the limitations regarding providing an appearance of having been wrapped by hand are interpreted broadly. The well known adage "beauty is in the eye of the beholder" should be considered as in the instant case the interpretation of "an appearance of having been wrapped by hand" could vary from person to person.

The invention to Bowman is fully capable for use for containing a floral arrangement. Bowman discloses "although the invention is illustrated in rectangular format and as gift wrap, it is not intended to be confined solely to rectangular gift wrapping"; see column 5, lines 64-66. Note that Weder discloses overlapping portions and a plurality of peaked sections; see above and figures 7-9.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the intent of Weder is not directed towards having a hand-wrapped product, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 9-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Chris Harmon
Patent Examiner